GOVERNMENT OF MYSORE.

LABOUR AND MUNICIPAL ADMINISTRATION DEPARTMENT (LABOUR).

Labour Dispute.—Industrial Dispute between the Workmen and the Management of Sri N.M.S. Lady Hill, Mangalore-6.

Award of the Labour Court, Hubli—published.

Read the following papers :—

1. Letter No. 65/66-67, dated 11th January 1967, from Shri Syed Azizuddin Ahmed, Presiding Officer, Labour Court, Hubli.

IN THE LABOUR COURT AT HUBLI.

Dated 11th January 1967.

Reference (ID) (LCH) No. 28 of 1966.

Present :

Shri Syed Azizuddin Ahmed, M.A., B.L., Presiding Officer.

Between :

The Workmen of Sri N. M. S. Lady Hill, Mangalore-6, represented by The Secretary, Karnatak Automobile and Engineering Workers' Union, Mangalore. ***First Party.***

and

The Management, Sri N.M.S. Lady Hill, Mangalore-6.

... ... ***Second Party.***

A notification of the Government of Mysore No. LMA 202 LLD 66, dated 23rd May 1966 notified that an industrial dispute existed between the management of Sri N.M.S. Lady Hill, Mangalore and their workmen and accordingly referred it to this Court for adjudication, specifying the following points of dispute:—

"Are the Management of Sri N.M.S. Lady Hill, Mangalore justified in refusing the claims of their workmen to increase wages or dearness allowance at the rate of Rs.15/-per month per worker with effect from 1st January 1965 onwards ?

If not, to what other reliefs are the workers entitled ?."

2. The cause of the aggrieved workmen has been sponsored and espoused by the Karnatak Automobile and Engineering Workers' Union, Mangalore through its Secretary. Sri A. V. Shetty, Advocate, appeared for the I Party while the management

is represented by Sri D. Shenoy its Enquiry Officer. In response to the Notices issued by the Court, the I Party filed its Claim Statement dated 2nd June 1966 and the II Party, its Counter Statement dated 1st July 1966.

3. The case of the I Party is that the II Party is a concern running a fleet of 13 service buses in South Kanara Distri ct employing about 60 workers as Drivers, Conductors, Checki ng Clerks, Fitters, Cleaners, etc. The cost of living index number in March 1962 was 472 points when the minimum wages were fixed. It went up to 675 points in April, 1965 when the demand for increase in wages and dearness allowance was made and has hit 712 points mark in January, 1966. The I Party contends that the management should effect increase in wages and dearness allowance at Rs. 15/-p. m to each of the workers with effect from 1st January 1965. The minimum wages was fixed in 1962 and since then the monthly salary for drivers has been Rs.83/-and for condnctors Rs.70/-.

4. The II Party resisted the claim. The sheet anchor of the defence is that the cost of maintenance of buses, spare parts, diesel and oils has increased immensely over the rates prevailing in 1962. The same is the case with regard to the State and the Centre Taxes payable by them in respect of their buses. If at all, anyone is to be granted any relief, it is they who deserve it. In short, it pleaded its financial incapacity to meet the additional burden in the shape of increase in wages or dearness allowance. On the basis of these pleadings, in addition to the points of dispute specified in the order of reference, the following issue was raised :

> ."Whether the management has the financial capacity to meet the demand of the I Party Union?"

The I Party examined one witness and closed the evidence. The II Party did not examine any witness. It did not produce the documents called for by the I Party. Its representative stated that the documents are with the auditors.

FINDINGS

Issue No. 1 and 2:

These two issues are interlinked and may, better be discussed together. As per the reference the burden of proof is on the II Party to justify its action in refusing the claim of their workmen to increase wages or dearness allow ance at the rate of

Rs. 15 p.m. per worker with effect from 1st January 1965 onwards. Barring their self-serving statement that they do not have the financial capacity to meet the additional burden, not an iota of evidence has been brought on record. The II Party did not choose to put a single witness in the witness-box and to satisfy the Court by positive evidence that there has been a general increase in the State and Central Taxes in respect of the buses and that there has been an increase in the prices of diesel and oils and spare parts. I do not see the reason why the II Party should feel shy in adducnig oral evidence to establish the increase in taxes and cost of maintenance of the vehicles. The II Party did not produce the documents called for by the I party. Its representative stated that the documents are with the auditor. I may not disbelieve the truth of this, but the fact remains that the II Party could have at least taken the certified copies of the relevant extracts of their books of account and produce them in the Court to satisfy it about their financial incapacity to meet felt the additional burden. I wonder why the II party should have felt coy in doing this, under section 118 of the Indian Evidence Act, the legal presumption would be that if the extracts of the balance sheets etc., has been produced in the Court, they would have gone against the interest of the II Party. In rebuttal, B. Narasimha Pai, Checking Inspector of the II Party stepped into the witness-box and deposed that he is being paid now Rs. 83 p.m. including dearness allowance. During the course fo hsi cross-examination, he admitted that the Checking Inspector is paid bhatta if on the line at the rate of Rs. 2/-per day in the city and Rs. 2/-per day outside the city for his daily expenses. He deposed that the cost of living has increased considerably but the wages have remained stagnant since 1962. The management has got the financial capacity to pay the dearness allowance demandd by the union.

5. During the course of his argumentss the learned representative of the II Party made much of the difficulties and the worries of the management, while the representative of the I Party pointedly drew my attention to the miserable plight of the workmen. He stated that the prices are soaring high and the sky alone seems to be the limit. It has increasingly become difficult for the workmen to make both ends meet. The measures announced by the Central Government to check the increase prices of various essential commodities specially after devaluation have borne no fruit. The prices of rice, wheat, edible oils, sugar, etc., have gone up considerably. Hence, it is imperative that substantial

relief be granted to enable the workmen to apply themselves to their duties with peace of mind. I find much force in the arguments of the learned representative o f the Party. The II Party has not cared to place its cards on the table with an open mind. I feel that it would service the ends of socio-economic justice if the workmen are paid Rs.8/- each as increase in their dearness allowance with effect from 1st January 1965. This would promote industrial peace and enable the workmen to apply themselves to their duties with devotion.

AWARD.

The management of Sri N.M.S.Lady Hill, Mangalore are not justified in refusing the claims of their workmen to increase wages or dearness allowance. The workmen are entitled to an enhanced dearness allowance at the rate Rs. 8 p.m. per worker with effect from 1st January 1965 onwards. No order as to costs.

SYED AZIZUDDIN AHMED,
Presiding Officer,
Labour Court, Hubli.

Place : Hubli
Date : 11-1-1967.

ORDER.

Bangalore, dated 21st January 1967.

S. O. 308.—WHEREAS by State Government Order No. PLM 202 LLD 66, dated 23rd May 1966, the Industrial Dispute between the Workmen and the Management of Sri N. M. S. Lady Hill Mangalore-6 was referred to the Labour Court, Hubli for adjudication ;

AND WHEREAS, the Labour Court has submitted to the State Government its award in respect of the said Industrial Dispute ;

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette.*

[No. LMA 202 LLD 66.]

By Order and in the name of the Governor of Mysore,

G. G. PUROHIT, *Under Secy.*

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